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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT TACOMA

9 HORACE G. FRIEND,

10 Plaintiff,

11 v.

12 PAULA DOWNEY, CEO of CSAA Insurance
13 Group, and BILL WESTRATE, Insurance
14 Executive of American Family Insurance,

15 Defendants.

CASE NO. C18-5894 RJB

ORDER AFFIRMING ORDER DECLINING
TO RECUSE VOLUNTARILY

16 This matter is before the Court on Plaintiff's Motion for Presiding Judge to Recuse from
17 Present Case. Dkt. #25. Plaintiff filed his Amended Complaint in this matter on November 28,
18 2018. Dkt. #6. One of the Defendants, Paula Downey, subsequently filed a Motion for Summary
19 Judgment on December 3, 2018. Dkt. #9. Defendant's Motion was subsequently granted on
20 January 18, 2019. Dkt. #16. Plaintiff sought reconsideration, which the Court denied. Dkts. #21
21 and #24. On February 14, 2019, Plaintiff filed the pending Motion to Recuse. The Honorable
22 Judge Robert J. Bryan denied Plaintiff's request for voluntary recusal and, in accordance with
23 this Court's Local Rules, the matter was referred to the undersigned for review. Dkt. #26; LCR
24 3(f).
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1 Pursuant to 28 U.S.C. § 455(a), a “judge of the United States shall disqualify himself in
2 any proceeding in which his impartiality might reasonably be questioned.” Federal judges also
3 shall disqualify themselves in circumstances where they have “a personal bias or prejudice
4 concerning a party, or personal knowledge of disputed evidentiary facts concerning the
5 proceeding.” 28 U.S.C. § 455(b)(1). Further, section 144 of title 28 of the United States Code
6 provides:

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8 Whenever a party to any proceeding in a district court makes and files a timely
9 and sufficient affidavit that the judge before whom the matter is pending has a
10 personal bias or prejudice either against him or in favor of any adverse party, such
11 judge shall proceed no further therein, but another judge shall be assigned to hear
12 such proceeding.

13 The affidavit shall state the facts and the reasons for the belief that bias or
14 prejudice exists, and shall be filed not less than ten days before the beginning of
15 the term at which the proceeding is to be heard, or good cause shall be shown for
16 failure to file it within such time. A party may file only one such affidavit in any
17 case. It shall be accompanied by a certificate of counsel of record stating that it
18 is made in good faith.

19 28 U.S.C. § 144.

20 Under both § 144 and § 455, recusal of a federal judge is appropriate if “a reasonable
21 person with knowledge of all the facts would conclude that the judge’s impartiality might
22 reasonably be questioned.” *Yagman v. Republic Insurance*, 987 F.2d 622, 626 (9th Cir. 1993).
23 This is an objective inquiry concerned with whether there is the appearance of bias, not whether
24 there is bias in fact. *Preston v. United States*, 923 F.2d 731, 734 (9th Cir. 1992); *United States*
25 *v. Conforte*, 624 F.2d 869, 881 (9th Cir. 1980).

26 Plaintiff’s Motion does not establish a basis for reasonably questioning Judge Bryan’s
27 impartiality. Rather, Plaintiff’s Motion makes clear that he disagrees with the Court’s Order on
Defendant’s Motion for Summary Judgment and Plaintiff’s Cross-Motion for Summary
Judgment (Dkt. #16) and the Court’s Order Denying Motion for Reconsideration (Dkt. #24).

1 Plaintiff argues that the decisions violated his right to a jury trial, that the decision improperly
2 judged the evidence, and that the Court should not have ruled on the summary judgment motion.
3 Dkt. #25 at 1–2. But, “a judge’s prior adverse ruling is not sufficient cause for recusal.” *United*
4 *States v. Studley*, 783 F.2d 934, 939 (9th Cir. 1986); *see also Taylor v. Regents of Univ. of Cal.*,
5 993 F.2d 710, 712 (9th Cir. 1993) (“To warrant recusal, judicial bias must stem from an
6 extrajudicial source.”). Plaintiff’s disagreement with the Court’s prior ruling provides no basis
7 warranting recusal.
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9 Accordingly, the Court finds and ORDERS that Judge Bryan’s Order Declining to Recuse
10 and Referring Motion to Chief Judge (Dkt. #26) is AFFIRMED. The Clerk shall provide a copy
11 of this Order to Plaintiff.

12 DATED this 21st day of February 2019.

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15 RICARDO S. MARTINEZ
16 CHIEF UNITED STATES DISTRICT JUDGE
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